

## REMARKS

In accordance with the foregoing, claims 16-25, 27-30, 32 and 33 are pending and under consideration. The Examiner's objections and rejections are traversed below.

### Rejections under 35 U.S.C. § 112, First Paragraph

In item 2 on pages 2-3 of the Office Action, the Examiner rejected claims 32 and 33 for failing to comply with the written description requirement. Specifically, the Examiner asserted that the recitation in claim 32 of "the control signals issued by said control and monitoring system relate to ... powering ... of the device" (claim 32, lines 1-3) are not supported by the disclosure. The Examiner's attention is directed to the end of paragraph [0018] of the Substitute Specification which states "the control and monitoring unit ... having control signals, which can be fed in via the input/output interface or interfaces for direct control of operating modes of a vehicle which is coupled to the apparatus." It well known in the art that an operating mode of vehicle includes whether the vehicle has power (i.e. whether and engine is off or on).

It is further stated that "the apparatus ... [is] installed in a mobile vehicle that is powered by a motor or engine, and has a connecting apparatus for connection to the supply voltage in the vehicle ... for detection of at least one ... [of] Generator of the supply voltage source in operation ... and ... not in operation" (Substitute Specification, paragraph [0012], lines 6-10). This clearly states that the motor or engine provides power to the vehicle. Therefore, support for "one of powering and movement of the device," can be found in the disclosure.

Claim 33 was rejected for allegedly lacking support for the term "powertrain" (claim 33, line 3). As noted above paragraph [0012] of the Substitute Specification states refers to "the apparatus being installed in a mobile vehicle that is powered by a motor or engine." It is well known in the automotive art that a motor or engine is part of the "power train" of a vehicle.

For the above reasons, withdrawal of the rejections of claims 32 and 33 under the first paragraph of 35 U.S.C. § 112 is respectfully requested.

As claims 32 and 33 were not rejected as anticipated by or unpatentable over the prior art, it is submitted that claims 32 and 33 are in condition for allowance.

### Rejections under 35 U.S.C. § 112, Second Paragraph

In items 4 and 5 on page 3 of the Office Action, claims 16-25, 27-30, 32 and 33 were rejected under the second paragraph of 35 U.S.C. § 112 for indefiniteness due to the use of different prepositions in reciting how the apparatus is mounted. Claim 16 has been amended to

recite "the device on which said apparatus is mounted" and therefore, it is submitted that claim 16 meets the requirements of 35 U.S.C. § 112, second paragraph.

Claim 16 having been amended in response to the rejection, claims 17-25, 27-30, 32 and 33 likewise meet the requirements of 35 U.S.C. § 112, second paragraph.

### **Objection to Claims**

In response to the objections to the claims in item 6 on page 3 of the Office Action, claim 16 has been amended to read "data acquisition from a device." As claims 17-25, 27-30, 32 and 33 are dependant from claim 16, the objection to claims 16-25, 27-30, 32 and 33 has been overcome.

### **Rejections under 35 U.S.C. § 102(e)**

In item 8 on pages 4-8 of the Office Action, claims 16-25 and 27-30 were rejected as anticipated by U.S. Patent No. 6,295,449 to Westerlage et al. In particular, it was asserted that a "control and monitoring system directly controlling operational states of the device" (claim 16, line 3) is disclosed by column 18, lines 8-18, and column 20 lines 49-52 of Westerlage et al. It is respectfully submitted that these references do not disclose, teach or suggest a device that is being directly controlled.

Column 18, lines 8-18 of Westerlage et al. states:

Processor 246 drives graphic display 268 through display driver 270 to display data received by communication unit 216 for viewing by a user of communication unit 216. Such data, for example, may be messages from a central host on weather conditions, delivery or destination instructions, among other messages. Furthermore, plug-in ROM 264 provides various information, such as map information or emergency assistance information for use by a user of the communication unit 216. This information can be displayed on graphic display 268.

Column 20, lines 49-52 of Westerlage et al. discloses a central host for providing the data received by communication unit 216 for viewing by a user. Both of these portions of Westerlage et al. discloses information being transmitted from a central host and displayed to a user of communication unit 216. The displaying of instructions on a graphic display does not imply "directly controlling" a device as recited in claim 16. Instructions to a user, who may chose to follow them or not, do not constitute **direct** control of a device.

It is submitted that claim 16 and claims 17-25 and 27-30 which depend therefrom patentably distinguish over Westerlage et al. for the reasons discussed above and in the Amendments filed December 12, 2003; July 6, 2004; February 17, 2005; August 22, 2005; October 20, 2005; and February 2, 2006.

### Entry of Amendment

It is respectfully requested that the Amendment be entered if any of the objections and rejections are withdrawn, since the number of issues on appeal will be reduced.

### Summary

It is submitted that the references cited by the Examiner do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 16-25, 27-30, 32 and 33 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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